IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 08 of 2006

Doiwala Sugar Company Ltd.
Doiwala, District Dehradun through
Executive Director & another ... Appellants

Versus

Sharvan Kumar S/o Sri Balk Ram
R/o Doiwala Katha
District Dehradun ..... Respondent

Sri T.A. Khan, learned counsel for the appellant

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal,J.

This special appeal has been field by the appellant against the order dated 10.02.2006 passed by the learned Single Judge of this Court in Writ Petition NO. 93 (S/S) of 2006. The learned Single Judge has passed the following order, which reads as under:-

"Heard Sri Manoj Shah, learned counsel for the petitioner and Sri T.A. Khan, learned counsel for the respondents.

The petitioner has prayed for a writ of mandamus directing the respondent to pay minimum wages to the petitioner till their case for regularization is decided. The petitioner was appointed in the year 1998 as daily wage basis as chokidar in U.P. State Sugar Corporation Limited.

Admit. Issue notice.

Sri T.A. Khan, learned counsel for the respondents prays for and is granted three weeks time to file counter affidavit.

List thereafter for order.

In the meantime, the respondents are directed to pay minimum wages as permitted by the rules."

2. Mr. Manoj Shah has refused to accept notice on behalf of the respondents, therefore, we are proceeding ex-parte.

3. The petitioner/respondent is a Security Guard in Sugar Mill and had filed a writ petition NO. 27 (S/B) 2002 in writ petition as not maintainable relegated the petitions (here the respondent in this writ petition) to avail the remedy before the labour court. It appears that the learned Single Judge due to oversight did not pursue the order passed by the Division Bench of this Court which was binding o n him and entertained this writ petition and passed the impugned order quoted above.

4. Since the writ petition was dismissed relegating the petitioners to the labour court, the Division Bench judgment was binding on the learned Single Judge ought to have dismissed the writ petition and could not have passed the impugned order.

5. Therefore, the impugned order dated 10.02.2006 passed by the learned Single Judge of this Court in Writ Petition No. 93 (S/S) of 2006 is dismissed.

6. Accordingly the Special Appeal is allowed. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

03.03.2006
R. Dang